

Applicants: Jason D. Bannan and John E. Zabriskie
U.S. Serial No.: 09/335,581
Filed: June 18, 1999
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Remarks

Claims 50 and 56-63 are pending and under examination in the subject application. By this Amendment, applicants have hereinabove amended claim 50 and canceled claims 56-63 without prejudice to applicants' right to pursue the subject matter of these claims in a future application. Applicants maintain that the amendments to claim 50 raise no issue of new matter and are fully supported by the specification as filed. Support for the amendments to claim 50 may be found, *inter alia*, in the specification, as originally filed, on page 17, line 28 to page 18, line 11; page 24, lines 18-20; page 10, lines 22-23; page 21, lines 20-29, and originally filed claim 3. Accordingly, applicants respectfully request entry of this Amendment. Upon entry of this Amendment, claim 50 will be pending and under examination.

Non-Responsive Amendment

In the August 24, 2004 Office Action, the Examiner alleged that applicants' response filed on May 21, 2004 is not fully responsive to the prior Office Action because amended claim 50 and new claims 56-63 are directed to inventions that are distinct from the invention originally claimed. The Examiner further stated that the amended and new claims are drawn to a peptide having the amino acid sequence set forth in SEQ ID NO:28, and that previously the claims were drawn to a peptide having the amino acid sequence set forth in SEQ ID NO:34.

In response, and in order to expedite prosecution, but without conceding the correctness of the Examiner's position, applicants have hereinabove amended claim 50. Applicants note that claim 50

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is directed to SEQ ID NO:34. Accordingly, applicants maintain that amended claim 50 is not directed to an invention "distinct from the invention originally claimed".

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

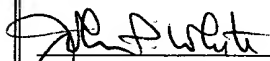
No fee, other than the \$795.00 fee for a four month extension of time, (being paid by the enclosed \$510.00 check and the authorization to charge to the deposit account no. 03-3125 a fee of \$285.00) is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of any such additional fee to Deposit Account No. 03-3125.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

 1/24/05
John P. White Date
Registration No. 28,678